

OGC Has Reviewed

CONSTRUCTIVE RECEIPT

Taxpayer on cash basis receives taxable income when paid to him.

However, income may be "constructively" received when it is subject to his control and use at will without performance of any further condition although actually surrendered to him.

Deposit in a bank of compensation in taxpayer's name is constructive receipt (par. 399.147).

Note that when entries not made on payor's books, and there was no evidence that taxpayer could withdraw funds immediately, fact that taxpayer could have required money to be set aside does not amount to constructive receipt (par. 399.1491).

OGC/CWP:mjm

Note: CCH par. 399.-

Distribution:

Orig - Gen Tax File

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